IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 98 OF 2004

SHRI PASCOAL CRUZ D'MELLO AND ANR., ...Appellants

Versus

SHRI ANTHONY SANTUS D'MELLO AND 3 ORS., ...Respondents

Mr. S. S. Kantak, Advocate for the appellants.

Mr. N. N. Sardessai, Advocate for respondents No.1 and 2.

Coram:- R. M. LODHA, J.

Date:- 17th August, 2005

P.C.

Heard.

The learned Counsel for the appellants urged that the appeal Court was not justified in not considering the cross objections on the ground that they were filed beyond the period of limitation. He may be right to some extent on that ground. But, that does not improve the case of the appellants. The trial Court recorded a specific finding that use of the water of the suit well and reservation of right of easement to the well along the southern boundary of the plaintiffs' property is by mutual consent between the original owner of the entire property and defendant No.1 and defendant No.3. In the cross objections filed by defendant No.1 no such specific challenge has been made to the aforesaid finding recorded by the learned trial Court. In this view of the matter, even if the cross objections filed by the appellants before the appeal Court were considered, the finding on issue No.4 recorded by the learned trial Court could not be interfered with.

The appeal does not give rise to any substantial question of law. Dismissed in limine.

R. M. LODHA, J.